

## Message Text

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PAGE 01 STATE 051986  
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E.O. 11652: XGDS 3

TAGS: PBOR, PLOS, EFIS

SUBJECT: US MARITIME BOUNDARIES

REF: OSLO 879

1) DEPT HAS APPRECIATED EMBASSY REPORTS ON GON-SOVIET MARI-  
TIME BOUNDARY AND FISHERY ISSUES, AND IN THIS CABLE WILL  
SET FORTH DEPT THINKING ON A NUMBER OF POINTS RAISED IN  
REFTEL.

2) RE US-CANADA BOUNDARY AND FISHERY PROBLEMS: AS NOTED  
REFTEL, US-CANADA SITUATION IN GULF OF MAINE IS SIMILAR  
IN MANY RESPECTS TO NORWAY-SOVIET UNION SITUATION IN  
BARENTS SEA. US AND CANADA HAVE SIGNED SHORT-TERM RECIP-  
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SECRET

PAGE 02 STATE 051986

ROCAL FISHERY AGREEMENT FOR 1977 (COPY POUCHED TO OSLO).  
MAIN PURPOSE OF THE AGREEMENT IS TO ALLOW CONTINUATION  
OF RE(IPROCAL FISHERIES IN 1977 IN ACCORDANCE WITH  
EXISTING PATTERNS AND SUBJECT TO CERTAIN AGREED ALLOCA-  
TIONS, UNDER REGULATIONS NO LESS FAVORABLE THAN THOSE  
APPLIED TO COASTAL STATE FISHERMEN IN THE COASTAL STATE'S  
ZONE, AND WITHOUT MANY OF THE ADMINISTRATIVE AND LICENSING

REQUIREMENTS THAT ARE PROVIDED FOR IN US AND CANADIAN LAW.

3) IN THE AGREEMENT, MARITIME BOUNDARY SITUATION IN GULF OF MAINE WAS HANDLED IN THE FOLLOWING MANNER. AREA OF QUOTE

BOUNDARY REGION UNQUOTE WAS DESCRIBED BY REFERENCING RELEVANT FEDERAL REGISTER AND CANADA GAZETTE NOTICES WHICH DESCRIBED THE CLAIMS. AGREEMENT THEN STATES THAT IN THE BOUNDARY REGION, ENFORCEMENT WITH RESPECT TO US AND CANADIAN VESSELS WILL BE BY THE FLAG STATE ONLY; THE PARTIES AGREE THAT NEITHER PARTY WILL ALLOCATE FISHERIES TO THIRD PARTIES IN THE BOUNDARY REGION; AND THAT EITHER PARTY HAS THE RIGHT TO ENFORCE AGAINST ANY THIRD PARTY IN THE BOUNDARY REGION. ABILITY TO REACH AGREEMENT BETWEEN US AND CANADA REGARDING EXCLUSION OF THIRD-PARTY FISHING IN THE BOUNDARY REGION WAS EASED DUE TO EARLIER AGREEMENT IN 1976 IN ICNAF CONTEXT THAT FOREIGN FISHING (NON-US AND CANADA) WOULD BE LIMITED TO CERTAIN AREAS OR WINDOWS IN AREA OF THE GULF OF MAINE WHICH WERE ALL OUTSIDE OF THE BOUNDARY REGION. ACCORDINGLY, NEITHER USG NOR CANADA HAS BEEN UNDER ANY PRESSURE TO ALLOW THIRD-PARTY FISHING IN THE BOUNDARY REGION. AS PRACTICAL MATTER, OTHER THREE DISPUTED BOUNDARIES BETWEEN THE US AND CANADA DO NOT RAISE IMMEDIATE AND PRACTICAL FISHERY PROBLEMS AND COULD THEREFORE BE AVOIDED IN THE AGREEMENT.

4) USG HAS TAKEN THIS AGREEMENT TO CONGRESS AND HAS ASKED FOR LEGISLATIVE ACTION TO BRING THE AGREEMENT INTO FORCE  
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PAGE 03 STATE 051986

FOR THE US SINCE IN MANY RESPECTS, IT IS AT VARIANCE WITH REQUIREMENTS OF THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976. DEPT IS HOPING FOR RAPID CONGRESSIONAL ACTION. THE AGREEMENT IS PRESENTLY BEING PROVISIONALLY APPLIED TO ALLOW RECIPROCAL FISHERIES TO GO FORWARD PENDING CONGRESSIONAL ACTION.

5) REGARDING THE US/RUSSIA 1867 CONVENTION LINE: USG WAS PLEASED TO LEARN THAT SOVIETS WERE ALSO OF THE VIEW THAT THE APPROPRIATE LIMIT OF FISHERY JURISDICTION WAS THE LINE ESTABLISHED BY THE 1867 CONVENTION. THE CONVENTION LINE NORTH OF THE BERING STRAIT IS A LINE OF LONGITUDE. THE USG WILL USE THIS LINE OF LONGITUDE OUT TO 200 NAUTICAL MILES AS THE LIMIT OF US FISHERY JURISDICTION. WE HAVE NO INDICATION USSR WOULD EXTEND CONVENTION LINE TO THE POLE AND US WOULD NOT ACCEPT SUCH EXTENSION. MOREOVER, IN OUR VIEW, THE SECTOR THEORY IS CONCERNED WITH TERRITORIAL ISSUES INSIDE PARTICULAR LINES, NOT THE LINES THEMSELVES OR HOW THE LINES ARE DRAWN. IT IS A THEORY WHICH ATTEMPTS

TO ASSERT TERRITORIAL JURISDICTION TO THE NORTH POLE, NOT FISHERIES JURISDICTION TO 200 MILES OR CONTINENTAL SHELF JURISDICTION. THIS IS KEY POINT RE IMPLICATIONS OF US/SOVIET CASE FOR SOVIET-NORWEGIAN NEGOTIATIONS.

6) THERE IS, OF COURSE, RISK THAT THE SOVIETS MIGHT EXPLOIT THE USE OF THE 1867 LINE AS A FISHERY LINE TO SUPPORT THE SECTOR THEORY. HOWEVER, EXISTENCE OF CONVENTION LINE ALREADY PRESENTS THIS RISK AND WE DO NOT FEEL PRESENT ACTION SUBSTANTIALLY INCREASES IT. MOREOVER, A TERRITORIALIST JURIDICAL REGIME COULD BE ASSERTED BEHIND ANY CLAIMED LINE IN THE ARCTIC, AND WE DO NOT BELIEVE THAT USE OF THE CONVENTION LINE, FOR FISHERY PURPOSES MATERIALLY INCREASES THE RISK THAT THE SOVIETS WILL PUT TERRITORIALIST FLESH ON THEIR SECTOR NOTION.

7) FYI: USG POSITION ON THE CONVENTION LINE FOR FISHERY  
SECRET

SECRET

PAGE 04 STATE 051986

PURPOSES WAS BASED ON INTERAGENCY CONSENSUS THAT THE 1867 CONVENTION LINE WOULD BEST PROTECT US RESOURCE (FISHERY AND HYDROCARBONS), POLITICAL, AND SECURITY INTERESTS AND STILL BE ACCEPTABLE TO THE USSR. USG WAS AT ALL TIMES AWARE THAT US AND USSR USE OF THE CONVENTION LINE COULD BE INTERPRETED AS PREJUDICIAL TO GON NEGOTIATING POSITION. END FYI.

8) SO FAR, THERE HAS BEEN VIRTUALLY NO PRESS INTEREST IN THE US REGARDING THE US-SOVIET MARITIME BOUNDARY. IF SUCH INTEREST DOES OCCUR, WE ONLY INTEND TO SAY THAT USG BELIEVES THE CONVENTION LINE WAS THE APPROPRIATE LIMIT OF FISHERY ZONE WHERE THAT LINE IS WITHIN 200 NAUTICAL MILES OF THE US COAST AND THAT WE ARE PLEASED TO NOTE THAT THE SOVIET GOVERNMENT IS OF THE SAME VIEW.

9) REGARDING SVALBARD, NORWEGIANS COULD ARGUE THAT OUR ACTION IS SIMILAR TO NORWEGIAN ACTION IN EXTENDING MARITIME JURISDICTION AROUND SVALBARD AND THEREFORE SUPPORTS NORWEGIAN THEORY THAT EXTENSION OF JURISDICTION AROUND SVALBARD IS NOT ENCUMBERED BY RIGHTS OF OTHER SPITZBERGEN TREATY PARTIES. HOWEVER, THE TWO TREATIES ARE BASICALLY DIFFERENT SINCE THE SPITZBERGEN TREATY CLEARLY RESERVES SOME RIGHTS TO OTHER PARTIES WHILE 1867 CONVENTION IS A COMPLETE CESSION OF TERRITORY AND DOMINION. MAJOR LEGAL QUESTION UNDER SPITZBERGEN TREATY IS INTENT OF PARTIES AS TO EXTENT OF RESERVATION OF RIGHTS, AN ISSUE WHICH IS COMPLETELY IRRELEVANT IN 1867 CONVENTION.

10) EMB MAY USE ABOVE EXPLANATIONS IN DISCUSSIONS WITH GON. OBVIOUSLY, POINT REGARDING SVALBARD SHOULD BE USED

ONLY IF GON MAKES ARGUMENT OF SIMILARITY OF ACTIONS.

11) YOU WILL BE KEPT ADVISED OF ONGOING DEVELOPMENTS AS  
APPROPRIATE.

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PAGE 05 STATE 051986

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## Message Attributes

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